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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,262

08/26/2003

Brian Harden

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DIGITAL OPTICS CORPORATION

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

12/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/647,262

**Applicant(s)**

HARDEN ET AL.

**Examiner**

Mathieu D. Vargot

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-30, 38, 41-46 and 51-70 is/are pending in the application.
- 4a) Of the above claim(s) 28-30, 38, 46, 51-60, 63 and 64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-27, 41-45, 61, 62 and 65-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17, 19-26, 41-45, 61, 62 and 65-70 are rejected under 35 U.S.C.

103(a) as being unpatentable over Napoli et al in view of Orlowski et al (see col. 3, lines 23-26; col. 6, lines 56-60).

Napoli et al is applied essentially for reasons of record, the primary reference lacking the instant separation step wherein the substrate is separated through first and second parallel surfaces to form individual optical elements. Orlowski et al discloses forming optical elements on wafers and then separating the elements by cutting the wafer in the instant manner. It certainly would have been obvious to have modified the method of Napoli et al as taught by Orlowski et al to form a number of LED chips. Note that Napoli et al is also directed to forming a similar device, or at least optical devices that would presumably have included the LEDs of Orlowski et al—see column 2, lines 13-16 of Napoli et al. Concerning newly added claims 65-70, Napoli et al teaches claim 65 and claim 66 is submitted to have been obvious in the combination of the art as applied. While Napoli et al does teach sawing the replica longitudinally to form two replicas each with lithographs, it is submitted that one of ordinary skill in this art would realize that such processing is totally dependent on exactly what final product is desired. Hence, forming two substrates and then securing them together before separating is considered to be obvious over forming the two sided substrate in Napoli et al **but not** cutting it

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longitudinally, and then separating the two-sided substrate as taught in Orlowski et al.

Surely, applicant will admit that the exact manner of cutting and securing would depend on the final product desired and that these operations would have been within the skill level of the art as they are nothing but conventional in the art. So too is the provision of a separation mechanism —ie, grooves and such—on the surface of a substrate to be cut.

2. Claims 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Napoli et al in view of Orlowski et al (see col. 3, lines 23-26; col. 6, lines 56-60) and Chou.

Napoli et al and Orlowski et al are applied for reasons set forth in paragraph 1, supra and Chou teaches the aligning set forth in instant claims 18 and 27. It would have been obvious to have modified the method of Napoli et al with an alignment as shown in Chou to ensure accurate replication.

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendment, new art has been applied which renders applicant's comments with respect to Napoli et al and Chou not in point. Needless to say, newly found Orlowski et al clearly teaches the instant separation and such is generally well known in the art, anyway. Note that Chou is now only being relied upon to teach the alignment, not any separation steps. It is noted that applicant desired a personal interview before this action. Unfortunately, such was not possible. Applicant is invited

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to call the examiner at the earliest convenience to set up a telephone interview should one be desired.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
December 22, 2007

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1791

12/22/07